

STATE OF TENNESSEE

Office of the Attorney General



**PAUL G. SUMMERS**  
ATTORNEY GENERAL AND REPORTER

MAILING ADDRESS

P O BOX 20207  
NASHVILLE TN 37202

**ANDY D. BENNETT**  
CHIEF DEPUTY ATTORNEY GENERAL

**LUCY HONEY HAYNES**  
ASSOCIATE CHIEF DEPUTY  
ATTORNEY GENERAL

RECEIVED

2004 JUL 28 PM 1:34

T.R.A. DOCKET ROOM

**MICHAEL E. MOORE**  
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER  
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491  
FACSIMILE 615-741-2009

July 28, 2004

Honorable Pat Miller  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: IN RE PETITION OF COUNCE NATURAL GAS CORPORATION TO  
INCREASE ITS RATES  
Docket No.: 04-00037**

Dear Chairman Miller:

Enclosed is an original and thirteen copies of a Stipulation and Agreement Between the Consumer Advocate and Protection Division of the Office of the Attorney General and Counce Natural Gas Corporation. Kindly file the attached in this docket. By copy of this letter, we are serving all parties of record. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Shilina B. Chatterjee".

Shilina B. Chatterjee  
Assistant Attorney General  
(615) 532-3382  
E-mail: shilina.chatterjee@state.tn.us

Enclosures

cc: All Parties of Record

77427

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

IN RE: APPLICATION OF COUNCE  
NATURAL GAS CORPORATION  
TO INCREASE ITS RATES

DOCKET NO. 04-00037

**STIPULATION AND AGREEMENT BETWEEN THE CONSUMER ADVOCATE AND  
PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL AND  
COUNCE NATURAL GAS CORPORATION**

Comes now Paul G. Summers, Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate" or "CAD") and Counce Natural Gas Corporation ("Counce") hereby states as follows:

On February 4, 2004, Counce Natural Gas Corporation filed its Petition for a rate increase with the Tennessee Regulatory Authority (hereinafter "TRA"). On March 24, 2004, the Consumer Advocate and Protection Division of the Office of the Attorney General filed a Petition to Intervene. On May 18, 2004, an Order was entered by the TRA convening a contested case proceeding, granting intervention to the Consumer Advocate and appointing a hearing officer.

On July 7, 2004, Counce filed its Amended Petition and revised testimony of Michael D. Horton, with Exhibits 1, 2, and 3. On the 16<sup>th</sup> of July, 2004, Counce filed revised Exhibit 1 to the amended petition, which revised Exhibit replaces the original Exhibit 1 to the Amended Petition.

Counce and the Consumer Advocate have reached a settlement agreement in this matter on the following terms and conditions:

The Amended Petition sought a base rate increase from \$2.1304 per MCF to \$2.9500 per MCF for residential, commercial, and industrial classes of customers of Counce. In addition, the company sought to increase its customer charge per month for residential customers from \$5.00 per month to \$10.00 per month; to increase the customer charge per month for commercial customers from \$10.00 to \$20.00; and to increase the customer charge per month for industrial customers from \$250.00 to \$300.00 per month. The Consumer Advocate does not oppose the base rate increase to \$2.95 per MCF for residential, commercial, and industrial classes combined with the increase in the customer charge per month for residential, commercial, and industrial classes as set out above. The rate increase will allow Counce to continue to service its customers, prevent impairment of its credit, meet the obligations of its customers, employees and creditors, and to preserve its property.

The test period selected by Counce is for the twelve months ended September 30, 2003. The attrition year is the twelve months ending June 30, 2005. The parties agree that the gross revenue at present rates of the company for the attrition period is \$66,719.00 as detailed on Exhibit 1 to this agreement. Counce and the Consumer Advocate agree that the net operating income in this case has been adjusted to reflect the appropriate attrition period level of revenues and expenses necessary for continued operation, as reflected in Exhibit 1 to this settlement agreement.


The revenue deficiency for the attrition period based upon current rates is the sum of \$30,249.00. A revenue adjustment of \$30,312.00 for the attrition period will enable Counce to reflect net income of \$62.00 for the attrition period.

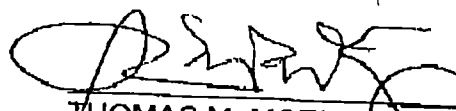
Therefore, Counce and the Consumer Advocate agree that a rate increase will produce additional revenues of approximately \$30,312.00 as reflected on Exhibit 1 to this agreement. Counce and the Consumer Advocate submit that the rate design is just and reasonable and meets the standards as set out in Tennessee Code Annotated §65-5-203(a) based upon the rate design set forth in Exhibit 1; the proposed changes in the tariff; and the testimony and exhibits of the parties on file in this matter.

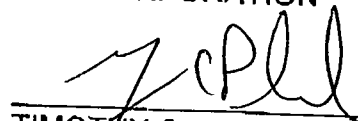
Counce and the Consumer Advocate submit this agreement as a stipulated agreement for consideration by the Tennessee Regulatory Authority and request that it be incorporated into an Order approving the rate increase and rate design and approving the proposed revised tariff filed by Counce.

Respectfully submitted,

COUNCE NATURAL GAS CORPORATION

  
MICHAEL D. HORTON  
PRESIDENT OF COUNCE NATURAL  
GAS CORPORATION

  
THOMAS M. MCELROY  
ATTORNEY FOR COUNCE NATURAL  
GAS CORPORATION

  
TIMOTHY C. PHILLIPS  
SENIOR COUNSEL  
B.P.R. NO. 12751

SHILINA B. CHATTERJEE  
B.P.R. NO. 20689  
ASSISTANT ATTORNEY GENERAL

Therefore, Counce and the Consumer Advocate agree that a rate increase will produce additional revenues of approximately \$30,312.00 as reflected on Exhibit 1 to this agreement. Counce and the Consumer Advocate submit that the rate design is just and reasonable and meets the standards as set out in Tennessee Code Annotated §65-5-203(a) based upon the rate design set forth in Exhibit 1; the proposed changes in the tariff; and the testimony and exhibits of the parties on file in this matter.

Counce and the Consumer Advocate submit this agreement as a stipulated agreement for consideration by the Tennessee Regulatory Authority and request that it be incorporated into an Order approving the rate increase and rate design and approving the proposed revised tariff filed by Counce.

Respectfully submitted,

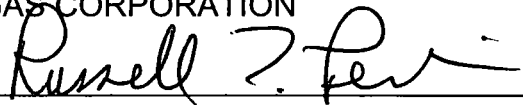
COUNCE NATURAL GAS CORPORATION

SEE PREVIOUS PAGE

MICHAEL D. HORTON  
PRESIDENT OF COUNCE NATURAL  
GAS CORPORATION

SEE PREVIOUS PAGE

THOMAS M. MCELROY  
ATTORNEY FOR COUNCE NATURAL  
GAS CORPORATION



RUSSELL T. PERKINS  
DEPUTY ATTORNEY GENERAL  
OFFICE OF THE ATTORNEY  
GENERAL, CONSUMER ADVOCATE AND  
PROTECTION DIVISION  
P.O. Box 20207  
Nashville, TN 37202-0207

Dated: July 22, 2004

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via facsimile and/or hand delivery on July 28, 2004.


Pat Miller  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 741-2904

Thomas McElroy  
P.O. Box 1450  
Tupelo, Mississippi 38801  
PHONE: (662) 842-3723  
FAX (662) 842-3744

Michael Horton  
Counce Natural Gas Corporation  
Subsidiary of Tumlinson Engineering,  
Inc.  
P.O. Box 285  
Burnsville, MS 38833  
PHONE: (662) 282-4261  
FAX: (662) 282-7212

Richard Collier, Esq.  
General Counsel  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505  
(615) 741-5015

Hal Novak  
Chief  
Energy and Water Division  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

  
Shilina B. Chatterjee  
Assistant Attorney General

REVISED  
EXHIBIT 1  
TO AMENDED  
PETITION

Counce Natural Gas Company  
Dkt No 04-00037  
For the test year ended September 30, 2003

Account	At 9/30/03 Per Company	At 6/30/05 Attrition Amounts	(4) Revenue Adjustment	At 6/30/05 With Proposed Rate Change
<b>Revenues</b>				
Residential	12,731	12,731	4,901	17,632
Commercial	14,039	14,039	5,405	19,443
Industrial	20,378	20,378	7,951	28,329
Min bills-Residential	6,755	6,755	6,755	13,510
Min bills-Commercial	4,100	4,100	4,100	8,200
Min bills-Industrial	6,000	6,000	1,200	7,200
Late Fees	2,717 (3)	2,717	-	2,717
Gross Revenue (1)	66,719	66,719	30,312	97,031
<b>Distribution</b>				
Repairs	4	4		4
Supplies	1,052	1,078		1,078
<b>Administrative</b>				
Accounting & Legal	5,761	5,905		5,905
Auto Expense	3,761	3,855		3,855
Donations	150	154		154
Dues & Subscriptions	714	732		732
Insurance	6,038	6,189		6,189
License	534	547		547
Miscellaneous	120	123		123
Utilities	747 (2)	766		766
Office Supplies	480	492		492
Postage	634	650		650
Rent	2,535	2,598		2,598
Telephone	1,753	1,797		1,797
Salaries - officers	20,348	20,958		20,958
Salaries - general	31,574	32,521		32,521
Amortization Expense	3,000	3,000 (5)		3,000
Depreciation Expense	1,057	8,594		8,594
<b>Taxes Other than Income</b>				
Taxes - other	2,447	2,508		2,508
Taxes - payroll	4,387	4,497		4,497
<b>Total expenses</b>	87,096	96,969		96,969
<b>Net income</b>	<u>(20,377)</u>	<u>(30,249)</u>		<u>62</u>

(1) Does not include gas costs

(2) Amount reduced by fifty percent to allocate portion of expense to Burnsville system

(3) Test year late fees adjusted to reflect anticipation of company's Industrial customers to pay on time

(4) Attrition year amounts indexed by inflation factors used by Company in Petition

(5) Amortized portion of projected rate case expense Two year amortization life expected